



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNC, RP, LRE, LAT, RR, FF

### Introduction

This matter dealt with an application by the Tenant for an order restricting the Landlord's right to enter the rental unit, for an order allowing her to change the locks, for an order requiring the Landlord to make repairs and in the alternative allowing the Tenant to make repairs and deduct the cost of them from her rent as well as to recover the filing fee for this proceeding.

The Tenant amended her application on November 2, 2009 to include a claim to cancel a Notice to End Tenancy for Cause. The Tenant said she sent a copy of the amended application to the Landlord by regular mail, however the Landlord claimed that she never received it. Section 89 of the Act says that a Tenant's application for Dispute Resolution must be served on a Landlord either in person or by registered mail. Consequently, I find that the Landlord was not served with the Tenant's amended application as required by the Act (or at all) and as a result her application to cancel the Notice is dismissed.

Section 66(3) of the Act says that the director *may not* extend the time limit to make an application for dispute resolution to dispute a notice to end tenancy beyond the effective date of the Notice. Although a copy of the One Month Notice was not submitted as evidence at the hearing, the Landlord claimed that the effective date of that Notice was November 30, 2009. Consequently, if the effective date of the One Month Notice has expired, the Tenant will be barred under the Act from reapplying for dispute resolution to cancel the Notice.

### Issues(s) to be Decided

1. Is an order required to place restrictions on the Landlord's right to enter the rental unit?
2. Is an order required to allow the Tenant to change the locks?
3. Are repairs necessary?

### Background and Evidence

This fixed term tenancy started on June 1, 2009 and expires on May 31, 2010. Rent is \$1,200.00 per month.

The Tenant claimed that on August 30, 2009, the Landlord entered the rental unit without her knowledge or consent when she was not home. The Tenant said she told the Landlord that it had frightened her and the Landlord said she would not do it again. However one week later, the Tenant said the Landlord entered the rental unit again without her knowledge or consent. The Tenant also claimed that the Landlord gave her a Notice of Entry in October 2009 but as she would not be home, she did not want the Landlord entering. The Tenant said she was not opposed to someone other than the Landlord entering the rental unit with Notice as long as it was at a time when she was home.

The Landlord claimed that she and the Tenant were friends up until September 2009 and that on August 30, 2009 she entered the rental unit to leave a gift for the Tenant. The Landlord said that she realized after the 2<sup>nd</sup> occasion, that she had blurred the line between a friendship relationship and a Landlord/Tenant relationship and thereafter gave the Tenant Notice of Entry. The Landlord noted that when she attended the rental unit in October 2009 after giving a Notice of Entry, the Tenant had Notices plastered all over her door advising her not to enter and called the police on her when she did. The Landlord said she needed access to the rental unit to obtain serial numbers from a furnace and appliances for insurance purposes.

The Tenant claimed that the gas fireplace in the downstairs part of the rental unit was not working and that there was no other source of heat. The Tenant also claimed that the cold water tap in the main bathroom was not working and that the main entrance way was unsafe. The Tenant admitted that she had not brought any of these matters to the Landlord's attention.

The Landlord argued that the gas furnace heated the whole rental unit including the downstairs. The Landlord also argued that the entrance referred to by the Tenant was not the main entrance. The Landlord claimed that the Tenant did not use the front entrance because she had converted that part of the house to a bedroom. Consequently, the Tenant chose to use the back entrance which was in the process of having a deck built. The Landlord argued that she had made a lot of renovations and repairs to the rental property since the beginning of the tenancy and would have looked into the need for further repairs had the Tenant brought them to her attention.

## Analysis

I find that an order is not required to place restrictions on the Landlord's right to enter the rental unit or for the Tenant to change the locks. The Landlord admitted that she should not have entered the rental unit without giving the Tenant written Notice as



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required by s. 29 of the Act. The Landlord's advocate argued that the Landlord was entitled to enter the rental unit without the Tenant being present. However, in circumstances such as these, the Landlord would be well advised for her own protection to arrange a time when the Tenant or an agent of the Tenant can be present so that no allegations of improper actions are later alleged.

As the Landlord has had no prior notice of the tap and fireplace issues, I decline to make a repair order until the Landlord has had an opportunity to investigate those matters. The Landlord would be well advised to investigate those matters as soon as is reasonably possible to determine if repairs are needed. I further find that there is insufficient evidence to conclude that the back entrance to the rental unit is unsafe and in need of repairs. Consequently, the Tenant's application for a repair order is dismissed.

## Conclusion

The Tenant's application is dismissed. This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 04, 2009.

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Dispute Resolution Officer